

PLANNING COMMISSION (203) 797-4525 (203) 797-4586 (FAX)

# MINUTES SEPTEMBER 3, 2008

The meeting was called to order at 7:35 PM by Chairman Arnold Finaldi Jr.

Present were Kenneth Keller, Edward Manuel, Joel Urice, Arnold Finaldi Jr. and Alternates Paul Blazska, Fil Cerminara and Helen Hoffstaetter. Also present was Associate Planner Jennifer Emminger and Secretary Patricia Lee.

Absent was John Deeb.

Chairman Finaldi asked Mr. Blazska to take Mr. Deeb's place for the items on tonight's agenda. He then said there were no new public hearings this evening.

# CONTINUATION OF PUBLIC HEARINGS:

<u>Venancio Realty LLC – Application for Special Exception to allow Garden Apartments ("Lauren Square")</u> in the C-CBD Zone, 55 State St. (#I14424) – SE #674. *Public hearing opened 8/6/08 – First 35 days will be up 9/8/08.* 

Mrs. Emminger explained that the engineer for this project, Mike Mazzucco had a tooth knocked out so he was unable to be here this evening. He did submit a thirty-five day extension for the public hearing.

Chairman Finaldi asked if there was anyone present to speak in favor of this application and there was no one. He then asked if there was anyone to speak in opposition to this application and there was no one.

Mr. Keller made a motion to continue this hearing. Mr. Urice seconded the motion and it was passed unanimously.

<u>Jeffney & Lynn Peterson – Application for two (2) lot Re-subdivision (2.094 ac.) in the RA-40</u> Zone and Zone and Request for Waiver to Chap. 4, Sec. B.6.2.(a) of the Subdivision Regulations

# <u>- 8 Fox Den Rd. (#C08111) - SUB #08-02. Public hearing opened 8/20/08 - First 35 days will be up 9/23/08.</u>

Attorney Fran Collins said they had received comments from the Fire Marshal and the Health Dept. today. He said revised plans have been submitted and asked Mark Kornhaas from Artel Engineering to explain the revisions. Mr. Kornhaas said they added a septic system about 56 ft away from the existing house. The Health Dept. says this plan if feasible but they still want a final plan. Several of the neighbors have expressed concerns about the septic and the overall drainage for the site. The Health Dept. has given a clean letter on the septic. He said there is a 50 ft. diameter snow shelf which is more than sufficient. Mr. Kornhaas said it is kind of hard to see; probably because it is about 20-22 ft. back from the shelf line. Mr. Keller asked if there is a possibility of blasting being needed and what kind of impact would it have on the adjoining properties. Mr. Kornhaas said it is possible that there could be blasting. Mr. Keller asked about the driveway distances. Mr. Kornhaas said there is a utility pole that would be situated right between the two driveways. He added that there is maybe five to seven ft. from the proposed driveway to the existing driveway. Mr. Keller asked about landscape buffers. Mr. Kornhaas said there are no regulations for this and they want to leave the right to cut the trees down to the purchaser of the lot.

Mrs. Emminger said they received the final reports from the Fire Marshal and Health Dept. She said despite the fact that the Padanaram Reservoir is a Class 1 Public Water Supply Watershed, this site is suitable for on-site septic. She said we are waiting for comments on the revised plans from Highway, Engineering and Planning. Attorney Collins said they have responded to all of the comments they have received. He then pointed out that there are two letters in favor of this proposal in the file. Mrs. Emminger then read the two letters in favor of this request from Robert & Susan Melvin, 7 Fox Den Rd. and Daniel & Danielle Lombardo, 10 Fox Den Rd. Chairman Finaldi noted that these do not need to be designated as exhibits.

Chairman Finaldi asked if there was anyone to speak in opposition to this application. Mrs. Emminger said she had spoken to one of the neighbors and they said they would be here around 8 PM once the husband gets home from work. After a brief discussion, it was decided to suspend the rules and look at the Old Business now and come back to this later in the meeting.

Later in the meeting, Chairman Finaldi again asked if there was anyone to speak in opposition to this application. At this time, a couple came forward.

Brian Lund, 20 Cushing Dr., said he is opposed to this for several reasons. First, he does not see how they can put the driveway where they propose without encroaching. He also is concerned about the drainage because when it rains or snows, they have bad drainage problems. Mrs. Lund then said the other problem is that all of the existing trees give them a sense of privacy and she is worried that they will take them all down. Chairman Finaldi asked Attorney Collins to respond to these issues.

Attorney Collins said these two driveways were approved and the City actually owns up to that property line, it's part of the right-of-way. Mr. Kornhaas said they are not going to touch the cul-de-sac. Mr. Manuel asked if the cul-de-sac would change at all. Mr. Kornhaas said there is no change proposed to either the shape or dimension. Mr. Urice asked about the Highway Dept. wanting a catch basin. Mr. Kornhaas explained that there is no place to put the water. Mrs.

Emminger said she would discuss this with Fran Lollie and try to come to an agreement about the runoff. She then asked Attorney Collins to clarify the City's easement and the temporary turnaround. She said with this, if the City wanted to they could put in the cul-de-sac. Mr. Urice said he has a similar situation on his property. It is a temporary easement so it is still your property; but the City can use it as a snow shelf.

Mrs. Emminger said she had requested some additional trees be planted between the property lines. She said Dr. Thomas Nero, 6 Fox Den Rd., who had spoken at the previous meeting and come into the office to review the plans, had also expressed some similar concerns. She suggested that we would like to see some additional plantings as a good gesture. She added that Mr. Kornhaas is correct in that the Regulations don't require this but it would be a good faith/good neighbor measure. She said this is just a suggestion since the neighbors are used to seeing it heavily wooded, so a staggered row of evergreens would provide an additional buffer. Mr. Keller said in a wooded area like this, we really cannot make a determination about how many trees are going to be cut down. This was followed by a discussion of the tree line, the limit line; clear cutting that has been done by applicants in the past and trying to preserve as many trees as possible. Mrs. Emminger said the protected tree line has to be staked out prior to any type of grading permit; it is something we've done in the past. Attorney Collins said Mrs. Emminger put it very well since it is not required in the Regulations. He then asked where exactly they were talking about. Chairman Finaldi said they would discuss that at the next meeting.

Mrs. Emminger referred to a non-specific comment about trees in her staff report. Chairman Finaldi reiterated that they would discuss this at the next meeting. Mr. Urice asked if everyone agreed. Dr. Thomas Nero then came forward and said what you see when you look at this site does not look like what is shown on this map. He said what the Lund's think is their front yard probably is not. Chairman Finaldi stopped him at this point saying this discussion is out of order. Mr. Manuel asked if the engineer can provide them with a detail on this issue so they can see exactly where the cull-de-sac is and the boundary line also. Attorney Collins said they would get Paul Fagan to do it. Mrs. Emminger suggested it be on an 11" X 17" sheet. Mr. Blazska asked that it include the tree in question also.

Mr. Urice made a motion to continue the hearing. Mr. Blaszka seconded the motion and it was passed unanimously.

#### OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

<u>Sugar Hollow Road Assoc. LLC – Application for Special Exception to allow uses (Retail, Restaurants & Drive-thru Bank) generating in excess of 500 vehicle trips per day in the CG-20 Zone, "The Shops at Marcus Dairy", 3 Sugar Hollow Rd. (#G17002 & #G17019) – SE #663. Public hearing closed 8/6/08 – 65 days will be up 10/9/08.</u>

Mrs. Emminger asked that this be tabled since the applicant submitted revisions last week. Mr. Urice asked as a point of order, how they submitted plans since the public hearing is closed. Mrs. Emminger said these plans were revisions for the floodplain permit which is an

administrative review. Mr. Urice made a motion to table this matter. Mr. Keller seconded the motion and it was passed unanimously.

Interstate Business Center, LLC – Application for Special Exception/Revised Site Plan to allow Hotel, Professional Office Space & Restaurant ("Prindle Lane Centre") generating in excess of 500 vehicle trips per day in the CA-80 Zone, Prindle La. (#D14001) – SE #603. Public hearing closed 8/6/08 – 65 days will be up 10/9/08.

Mr. Keller said he had listened to all of the tapes and reviewed all of the exhibits so he is eligible to vote. Mr. Manuel said he intends to listen to the tapes before the next meeting so he also will be eligible to vote. Mrs. Emminger said they need to discuss this so she can prepare a resolution for the decision.

Mr. Urice said this certainly was a very emotional issue for the residents in that area of the City. He pointed out that there is a prior approval that can still be built. He said the applicant has proposed many roadway and signalization changes that will have to be approved in advance by the State DOT, but with these it could be a good project for this area. He said all of these changes should have to be in place before any Certificate of Occupancy (CO) is issued for the project. Mr. Keller then discussed the history of the proposal and reiterated that it will need State approvals. Ms. Hoffstaetter said she agreed with everything that has been said. They heard the big opposition to this project, but the applicant's team made a good case for approval. It will generate less traffic than the original proposal would. She said the infrastructure is already in place and they have proven that the traffic impact will be minimal. Since the City of Danbury does not have jurisdiction over improving this road, from a traffic improvement standpoint, this is a good plan. Mr. Blazska asked Mrs. Emminger if this is approval of this makes the other approval null and void. Mrs. Emminger said as a condition of the approval, we would rescind the previous approval and require the applicant to file a document stating that on the land record. Mr. Blazska said he agreed with the others that we must have DOT as part of the approval. Mr. Keller asked if they have that purview. Mrs. Emminger said she would check out the permit process with the Zoning Enforcement Officer (ZEO) to see where the State figures into it. Mr. Blazska said his concern is that the applicant would get into the building and then the State says no. Mrs. Emminger said that is why she would like to check with the ZEO as to when they will need to get the State's approval. Mr. Blazska suggested having Corporation Counsel advise them on this specific issue. This was followed by an extensive discussion on the fact that the Commission wants to condition the approval to be tied to the State's approval of the proposed changes to the roadway. Chairman Finaldi said there are a lot of passionate feelings on this issue. He added that the difference between these two proposals appears to be almost a wash. He pointed out that the applicant did go a step further by identifying the conditions causing some of the problems with the traffic. The applicant also suggested several improvements; which could cause a change in the level of service (LOS) from A to D. These solutions are not a part of the 2003 approval. Mr. Blazska said the applicant did listen to the public's concerns and the public should be commended for helping them to get a better proposal before them. Mrs. Emminger said they had received a signoff from Chief Baker and Mr. Mohammed's final report on the traffic. She said they each have copies of these documents. She summarized Mr. Mohammed's findings and said this is math, no smoke and mirrors here, it is strictly about the numbers. Mr. Mohammed spoke about

the on and off site improvements and recognized that State traffic approval is necessary. She then reminded the Commission that they still need to make the four criteria for a special exception. Chairman Finaldi asked if there was anything else anyone wanted to say and there was nothing. Mr. Blazska made a motion to table this until the next meeting. Mr. Urice seconded the motion and it was passed unanimously.

Pamela Equities Corp. – Application for fourteen (14) lot subdivision (110.29 ac.) "Candlewood Pines" in the RA-80 Zone and Request for Waiver to Chap. 4, Section B.12. of the Subdivision Regulations – 65-67 Bear Mountain Rd. (#H03069) – Subdivision Code #08-01. Public hearing closed 8/20/08 – 65 days will be up 10/23/08.

Mr. Keller started to excuse himself as he is abstaining from this matter, but Mrs. Emminger said that would not be necessary since they are waiting for the final report from the City Traffic Engineer as well as her final report. Mr. Blaszka made a motion to table this. Mr. Manuel seconded the motion and it was passed unanimously.

### **NEW BUSINESS:**

Mulvaney Properties LLC – Application for Special Exception to allow a Manufacturing, Office and R & D use ("Biodel, Inc.") generating in excess of 500 vehicle trips per day in the IL-40 Zone – 100 Sawmill Rd. (#A17005) – SE #677. *Public hearing scheduled for 9/17/08.* 

Mr. Blazska said he will be abstaining from this matter as his wife just became an employee at Biodel. Chairman Finaldi said that this application would be on file in the Planning & Zoning Office.

# REFERRALS:

8-3a Referral – Petition of Carmela & Juvenal Almeida, 8 Durant St. (#J13043 & #J13044) for Change of Zone from CG-20 to R3. Zoning Commission public hearing will be re-scheduled at request of applicant's attorney.

8-3a Referral – Petition of Attorney Neil Marcus as Agent to Amend Sec. 5.A.2.a. of the Zoning Regulations. (Add "Granite, Marble & Tile Sales establishment including shaping of stones and similar processes" as a permitted use in the CG-20 Zone) *Zoning Commission public hearing scheduled for October 14, 2008.* 

Mr. Blazska made a motion to table these until the next meeting. Mr. Manuel seconded the motion and it was passed unanimously.

There was nothing under Correspondence or Other Matters. Under For Reference Only were listed four applications for Floodplain Permits and a public hearing scheduled for October 1, 2008.

At 8:45 PM, Mr. Manuel made a motion to adjourn. Mr. Blaszka seconded the motion and it was passed unanimously.